

MINUTES
NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION
August 23, 2012
GROUND FLOOR HEARING ROOM, ARCHDALE BUILDING
RALEIGH, NORTH CAROLINA

The North Carolina Sedimentation Control Commission met on August 23, 2012 at 10:00 a.m. in the Ground Floor Hearing Room, Raleigh, North Carolina. The following persons were in attendance for all or part of the meeting:

COMMISSION MEMBERS

Ms. Robin K. Smith, Chair – (via telephone)
Mr. Joe Glass
Mr. Jonathan Bivens
Ms. Heather Deck
Mr. Kevin Martin
Mr. Randy Veltri
Mr. Rob Weintraub
Mr. Tommy Anderson
Dr. Rich McLaughlin

OTHERS

Mr. Tracy Davis, Director, Division of Energy, Mineral, & Land Resources
Mr. Gray Hauser, State Sedimentation Specialist, Land Quality Section
Ms. Stephanie Lane, Administrative Secretary
Mr. Mell Nevils, Section Chief, Land Quality Section
Mr. Matt Poling, Assistant State Sedimentation Specialist, Land Quality Section
Ms. Evangelyn Lowery-Jacobs, Sed. Education Specialist, Land Quality Section
Mr. John Holley, Land Quality Section
Mr. Phillip Reynolds, AG's Office
Mr. John Payne, AG's Office
Mr. Don Lee, NC Department of Transportation
Ms. Melanie McCaleb, NCSU
Mr. Jack Chandler, Catawba County
Mr. Barry Edwards – Catawba County
Mr. Leon M. Killian, III – Haywood County
Mr. Kirk Stafford – Town of Cary
Ms. Nicole Wilkinson – WRRRI
Ms. Lisa Schiarinato – NC Sea Grant
Ms. Erin Wynia - NCLM

PRELIMINARY MATTERS

Ms. Smith called the meeting to order and read Executive Order No. 1.

Mr. Weintraub indicated a possible appearance of conflict of interest for himself with issues related to the Wake County local program. Mr. Reynolds indicated there was not a conflict of interest that would prevent Mr. Weintraub from voting.

Those in attendance introduced themselves.

Ms. Smith welcomed Tracy Davis as the new Director to the Division of Energy, Mineral, and Land Resources.

Ms. Smith nominated Dr. McLaughlin to officiate over the meeting in her absence. The Commission gave unanimous consent for the motion.

Dr. McLaughlin asked for a motion to approve the minutes from the May 24, 2012 meeting.

The motion to approve the minutes was made by Ms. Deck. Mr. Glass seconded the motion, and it carried unanimously.

ACTION ITEMS

Malaysian Request to Use Specifications and Details from the Erosion and Sediment Control Planning and Design Manual -- Mr. Mell Nevils

Mr. Nevils discussed a request from Malaysia to use segments of the Erosion and Sediment Control Planning and Design Manual in their development of an erosion control program. Permission has been granted in the past to similar requests, stipulating credit must be given to the Commission for use of the information.

Staff recommended granting permission to Malaysia to use the Design Manual.

The motion was made by Mr. Martin to allow Malaysia to use parts of the design manual as recommended by staff. Mr. Veltri seconded the motion, and it carried unanimously.

Local Program Reviews -- Mr. Matthew Poling

Mr. Poling reported on the reviews of Swain, Jackson, Wake, Durham, Rowan, Chatham and Catawba Counties and the City of Greenville delegated programs. A copy of the Local Program Report to the SCC is attached to the original minutes.

Wake County - On May 16, 2012, Mell Nevils, Matt Poling, John Holley, and Joe Dupree conducted a review of the Wake County Local Program. The County's local program consists of 8 full time staff. The County reported having 265 active projects.

The County has reviewed 136 plans with 69 approvals and 67 disapprovals, and has conducted 5,301 inspections, issued 7 notices of violations, and assessed one civil penalty in the past 12 months. During the review of the program, Land Quality reviewed 6 projects.

Staff recommended continued delegation of the program, with implementation of the following recommendations:

- 1) If violations are marked on the inspection report, the site is out of compliance with the SPCA. Please indicate this on all inspection reports.
- 2) Continue requiring that adequate ground cover is provided within the time limits of the local ordinance and approved plan.
- 3) Continue to check for self-inspection records on site.

Ms. Smith requested the full detailed report be emailed to the Commission.

Mr. Anderson made a motion for continued delegation, contingent upon staff recommendations. Mr. Bivens seconded the motion and it was approved unanimously.

Durham County - On June 20, 2012, Matt Poling, John Holley and Joe Dupree conducted a review of the Durham County Local Program. The County's local program consists of 3 persons that contribute 2.5 full time equivalents. The County reported having 73 active projects. Last year, the County reviewed 79 plans with 78 approvals and one disapproval, and conducted 1450 inspections, issued 9 notices of violations, and no civil penalties. Six projects were reviewed.

Staff recommended continued delegation of the program with implementation of the following recommendations:

- 1) Continue requiring that adequate ground cover is provided within the time limits of the local ordinance and approved plan.
- 2) Continue to check for self-inspection records on site.

Ms. Deck made a motion to continue delegation with implementation of the above recommendations. Mr. Veltri seconded the motion and it was approved unanimously.

Jackson County - On May 30, 2012, Matt Poling, Gray Hauser, Laura Herbert, Charles Koontz and Darlene Kucken conducted a review of the Jackson County Local Program. The County's local program consists of 5 staff that contribute 3.5 full time equivalents to erosion control. The County reports having 89 active projects. County staff have reviewed 18 plans with 17 approvals and one disapproval, and have conducted 1,646 inspections, issued 2 notices of violations, and no civil penalties in the past 12 months.

Five projects were reviewed. Three sites were out of compliance for ground cover and maintenance. The County had inspected the three projects, and documented the sites as out of compliance on their reports. The plans were adequate and all documentation was in order.

Staff recommended continued delegation of the program with implementation of the following recommendations:

- 1) Continue requiring that adequate ground cover is provided within the time limits of the local ordinance and approved plan.
- 2) Continue to check for self-inspection records on site.

Mr. Nevils indicated the concerns of the SCC will be discussed with the County. Mr. Martin made a motion for continued delegation. Mr. Anderson seconded the motion and it was approved unanimously.

Dr. McLaughlin asked whether the Commission would like to hear from a Jackson County representative on their policies and enforcement. Mr. Martin expressed interest in their response when staff discusses the SCC concerns.

Swain County - On May 31, 2012, Matt Poling, Gray Hauser, Charles Koontz, and Jeff Wait conducted a review of the Swain County Local Program. The County's local program consists of two persons that contribute less than one full time equivalent. Two plans were reviewed and approved in the last year. Both active projects were reviewed. One of the projects inspected was in compliance and the other had violations for ground cover and maintenance.

Staff recommended continued delegation of the program with implementation of the following recommendations:

- 1) Continue requiring that adequate ground cover is provided within the time limits of the local ordinance and approved plan.
- 2) Continue to check for self-inspection records on site.

Mr. Glass made a motion for continued delegation. Mr. Anderson seconded the motion and it was approved unanimously.

Rowan County - On June 21, 2012, Matt Poling conducted a review of the Rowan County Local Program. One person contributes 0.5 full time equivalent to the erosion control program. The County has 15 active projects. The County reviewed 13 plans with 13 approvals, and has conducted 100 inspections, issued 4 notices of violations, no civil penalties in the past 12 months. Five projects were reviewed. One of the five sites inspected was out of compliance. The site was a 6.4 acre residential site with violations for ground cover. The County had previously inspected the site and noted it out of compliance in their report.

Staff recommended continued delegation of the program with implementation of the following recommendations:

- 1) Continue requiring that adequate ground cover is provided within the time limits of the local ordinance and approved plan.
- 2) Continue to check for self-inspection records on site.

Mr. Bivens made a motion for continued delegation and was seconded by Mr. Veltri. The motion was approved unanimously.

City of Greenville - On July 25, 2012, Matt Poling, Pat McClain and Gray Hauser reviewed the City of Greenville Local Program. The program is currently on probation. Six projects were evaluated. Two out of the six projects had violations. The City had previously noted these violations and has issued several Notices of Violations for multiple projects. The City has been working with the Washington Regional Office and has improved administering their erosion and sediment control program.

Pat McClain, PE, Washington Regional Engineer, has been working closely with the program and has given a summary of the productive meetings that he has had with the City of Greenville.

The City of Greenville is visiting their sites on a regular basis and is pursuing enforcement as needed. Land Quality staff recognized the efforts by City of Greenville to improve their sedimentation and erosion control program. Staff recommended removing the City of Greenville from probation and continued delegation of the erosion and sediment control program.

Mr. Nevils added a complaint was received (the previous day) on the StopMud hotline regarding three problematic sites. Two of the sites belong to the City of Greenville. The third site has been referred to the Washington Regional Office for investigation.

Ms. Deck made a motion to remove the City of Greenville from probation, and request staff to review within one year. Mr. Martin seconded the motion and it was approved unanimously.

Catawba County - On August 1, 2012, Matt Poling, Ryan Kormanik, Zahid Khan and Gray Hauser conducted a review of the Catawba County Local Program. During the past three months, the Mooresville Regional Office has been working with Ms. Toni Norton (Water Resources Engineer) on improving the program. Ms. Norton was severely injured the weekend before the review, and was on medical leave. Land Quality staff met with four personnel from Catawba County. These Catawba County personnel will have to be coached on plan reviews, inspections and enforcement procedures.

Three projects were reviewed. Two of the three projects had violations and were considered out of compliance. The most recent County inspection reports were accurate. The County had previously noted these violations and had issued a Notice of

Violation for one of the projects. The County has been working with the Mooresville Regional Office and is starting to show better practices for administering their erosion and sediment control program. Land Quality staff recognized the efforts by Catawba County to improve their Sedimentation and Erosion Control Program and would like to see continued improvements.

Because Catawba County's Water Resource Engineer is on extended medical leave, an accurate portrayal of the program cannot be made at this point in time. Staff recommends that Catawba County's probationary period be extended until the next SCC meeting which is scheduled for November 14, 2012.

Dr. McLaughlin asked for the Catawba County representative to address the Commission.

Mr. Barry Edwards (Utilities & Engineering Director) thanked the Commission for the opportunity to speak to the group. He made an apology for the current position of the program, and expressed concerns with controlling erosion in the Catawba County. The County has taken steps to make erosion control a focus of the Engineering Department. Interactive maps have been created to display every permit issued within the County to ensure transparency in efforts for all projects. He thanked the Mooresville Regional Office staff for their efforts to improve the delegated program.

Mr. Martin made a motion to extend the probationary period until the November 14, 2012 SCC meeting. Mr. Anderson seconded the motion and it was approved unanimously.

Memorandum of Agreements with Local Programs -- Mr. Gray Hauser

Mr. Hauser gave a brief discussion of the Memorandum of Agreement (MOA), approved by the SCC, to be adopted by each local program. Lincoln, Swain, and Haywood Counties and the Towns of Southern Pines, Beech Mountain and Highlands have signed the MOA and request agreement by the SCC.

Mr. Martin asked whether the MOAs are the same as the template or if any changes have been made. Mr. Hauser indicated the MOAs are the same.

Ms. Smith suggested guidance should be given to the local programs when completing the MOAs to ensure consistency among the documents.

Haywood County

Mr. Martin made a motion to approve the Haywood County MOA with the changes noted during discussion. Mr. Anderson seconded the motion and it carried unanimously.

Joint Resolution of The Town of Maggie Valley and Haywood County

Mr. Hauser indicated Maggie Valley is an incorporated area in Haywood County that does not participate in the local program. The Town Council and Haywood County Commissioners have developed a resolution asking the Commission to approve expansion of jurisdiction to include Maggie Valley. It is a modest area to be included in the jurisdiction.

Staff recommended approval of the Joint Resolution of The Town of Maggie Valley and Haywood County.

Mr. Martin made a motion to approve the request from Maggie Valley and Haywood County for expansion of jurisdiction. Mr. Bivens seconded the motion and it carried unanimously.

Lincoln County

Mr. Reynolds, Commission Counsel, recommended the Commission could approve the MOA, but delegate staff to include the correct County name in the document.

Mr. Martin made a motion to approve the Lincoln County MOA with the above recommendations by Mr. Reynolds. The motion was seconded by Ms. Deck and it carried unanimously.

Swain County

Mr. Martin made a motion to approve the Swain County MOA. The motion was seconded by Ms. Deck and it carried unanimously.

Town of Southern Pines

Mr. Martin made a motion to approve the Town of Southern Pines MOA with an adjustment to the date of the agreement shown at the top of page 6. The motion was seconded and it carried unanimously.

Beech Mountain

Ms. Deck made a motion to approve the MOA with an adjustment to the date of the agreement shown at the top of page 6, and include printed names with the signatures. The motion was seconded by Mr. Martin and it carried unanimously.

Town of Highlands

Ms. Deck made a motion to approve the Town of Highlands MOA. Mr. Weintraub seconded the motion and it carried unanimously.

Adoption of Practice Standards and Specifications for the Erosion and Sediment Control Planning and Design Manual – Ms. Lowery-Jacobs

Recommendations of the Technical Advisory Committee (TAC) for Compost Blankets and Porous Baffles were presented.

Ms. Lowery-Jacobs presented the design criteria and construction specifications for the Compost Blankets practice standard.

Mr. Veltri questioned if the standard must be as restrictive as it currently outlines. Mr. Hauser indicated the compost utilized on construction sites in North Carolina is recommended to meet the criteria for proper thermophilic composting, but is not required by law.

Mr. Bivens asked whether the material used on various projects met the requirements outlined in this standard. Dr. McLaughlin indicated some of the outlined parameters are necessary in order to establish vegetation, while others such as particle size are recommendations of the US Compost Council.

After much discussion, Mr. Nevils indicated staff could request a representative from the Composting Council to address questions from the Commission.

Mr. Martin made a motion to accept the Compost Blankets standard for inclusion in the Design Manual. Ms. Deck seconded the motion and it was approved unanimously.

Ms. Lowery-Jacobs presented the design criteria and construction specifications for the Porous Baffles practice standard.

Mr. Veltri asked whether the ability to use two baffles in basins less than 20 feet will be included in the Design Manual. Ms. Lowery-Jacobs indicated that option is part of the design criteria and will be included in the revision.

Mr. Martin made a motion to accept the Porous Baffles standard for inclusion in the Design Manual. Mr. Veltri seconded the motion and it was approved unanimously.

Ms. Lowery-Jacobs mentioned two additional practice standards (Compost Sock and Riparian Area Seeding) that are currently in development by the TAC, and should soon be presented to the Commission.

Mr. Nevils added the TAC has several subcommittees working on various issues. One issue is a survey to get feedback from engineers/designers/landscape architects to determine the effectiveness of BMPs in the mountains, and how those could be improved. The TAC may submit a request for funds from the Commission to complete the survey.

INFORMATION ITEMS:

Legislative Update -- Mr. Mell Nevils reported on 2012 Session Laws that amend or affect the SCPA.

Report on Local Program Assistance by Regional Offices -- Mr. Gray Hauser presented a report on Fayetteville Regional Office Contact with Whispering Pines. A copy of this report is attached to the original minutes.

Enforcement Report -- Mr. Payne gave a summary of the Attorney General's enforcement report. A copy of this report is attached to the original minutes.

Land Quality Section Active Sediment Cases Report -- Mr. Hauser presented the status of Civil Penalty Assessments. A copy of this report is attached to the original minutes.

NCDOT Report -- Mr. Hauser presented a report on Immediate Corrective Actions issued by NCDOT. A copy of this report is attached to the original minutes.

Expansion of the Department of Transportation's Erosion and Sedimentation Control Program -- Mr. Don Lee

Mr. Lee discussed issues the NC DOT is experiencing with design-build projects. A meeting was held with Land Quality staff to discuss concerns.

NC DOT has reviewed several projects to determine problems with the design-build process. A process is underway to discuss ideas with industry to address concerns with design-build work.

Mr. Bivens discussed industry efforts to evaluate design-build work as it progresses.

Mr. Nevils added design-build projects have allowed construction to get ahead of their ability to perform sediment and erosion control work. The Roadside Environmental Unit has discussed the issue with contractors, but it has not been resolved. There is no mechanism in place to fix issues in design-build, as has been established for bid-build projects.

Mr. Lee indicated the NC DOT plans to submit a response to Land Quality in September to address the issues.

Dr. McLaughlin indicated the Commission would like a progress report at the November SCC meeting.

Education Program Status Report -- Ms. Lowery-Jacobs presented a report on the past and current projects in the Sediment Education Program. A copy of this report is attached to the original minutes.

Dr. McLaughlin asked whether any adjustments have been made to the workshop agendas in response to the survey conducted by the Center for Urban Affairs and Community Services (CUACS). Ms. Lowery-Jacobs indicated the agendas have been modified to one day sessions as requested in the survey. Also, the topics selected for the agendas have been chosen to satisfy the needs of the audience.

Sediment Program Status Report -- Mr. Poling provided a report on the LQS current plan approval, inspection, and enforcement activities statewide.

Land Quality Section Report -- Mr. Nevils provided a report on the current number of vacancies in the Section and other LQS activities and issues.

CONCLUSION

Remarks by the Director -- Mr. Davis discussed the recent changes with the Division. The passage of the Shale Gas Bill (2012-143) has delegated the rulemaking process to the Division of Energy, Mineral, and Land Resources. The development of the Mining and Energy Commission was mentioned, including plans for the addition of 3 positions which will implement the framework for the new Energy Program housed within the Land Quality Section.

Mr. Veltri expressed thanks to the staff for providing educational support to the new personnel of Duke and Progress Energy.

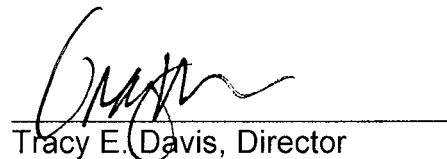
Dr. McLaughlin questioned whether there are set criteria for the positions composing the Mining and Energy Commission. Mr. Davis indicated there are 3 Ex officio positions, 4 appointments by the Speaker, 4 appointments by the President Pro Tem, and 4 appointments by the Governor. There is a designation for balance in the appointments, and they serve staggered terms.

Remarks by the Commission -- None

Remarks by the Chair -- None

Adjournment -- As there was no further business, Dr. McLaughlin adjourned the meeting at 12:55 pm.


Stephanie Lane, Recording Secretary


Tracy E. Davis, Director